

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WASTE AND HAZARDOUS MATERIALS DIVISION

In the matter of the  
administrative proceedings against  
Glen's Sanitary Landfill, Inc., doing  
business at 518 East Maple Highway, located  
in Section 35, T23N, R1W, Kasson Township,  
Leelanau County, Michigan

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WHMD Fast Track Order No. 115-03-09

CONSENT ORDER

This proceeding results from allegations specified in the Violation Notices issued on March 11, 2009, and March 27, 2009, by the staff of the Department of Environmental Quality ("DEQ"), Waste and Hazardous Materials Division ("WHMD"). The DEQ alleges that Glen's Sanitary Landfill, Inc. (the "Respondent"), doing business at 518 East Maple Highway, located in Section 35, T23N, R1W, Kasson Township, Leelanau County, Michigan, is in violation of Part 115, Solid Waste Management, and Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, Michigan Compiled Laws ("MCL") 324.101 *et seq.* ("NREPA"), and the administrative rules promulgated under of these parts. The Respondent and the DEQ agree to resolve the alleged violations set forth in the Notice by entry of this consent order ("Order").

I. STIPULATIONS

The Respondent and the DEQ stipulate as follows:

- 1.1 Pursuant to its authority under Section 105 and Part 115 of the NREPA, the DEQ has promulgated administrative rules necessary to implement Part 115. These rules are set forth in the 2005 *Annual Administrative Code Supplement*, R 299.4101 *et seq.* ("Part 115 Rules").
- 1.2 Pursuant to the NREPA and Executive Order No. 1995-18, the Director of the DEQ ("Director") is the state official and the DEQ is the state agency charged with the

administration and enforcement of Part 115. This Order is authorized under Section 11519(2) of Part 115.

- 1.3 The Respondent is a "person" as defined by Section 301(g) of the NREPA. The Respondent is a Michigan corporation and is a subsidiary of Waste Management, Inc.
- 1.4 The Respondent owns and/or operates a solid waste disposal area, which is a Type II sanitary landfill located at 518 East Maple Highway, located in Section 35, T23N, R1W, Kasson Township, Leelenau County, Michigan.
- 1.5 The Disposal Area occupies approximately 401 acres of land. The Disposal Area consists of several active double-lined cells, a partially closed area, and associated leachate storage and handling facilities. Solid Waste Disposal Area Operating License No. 9129 was issued for the Disposal Area on December 6, 2005. Attachment 1 sets forth the approximate boundaries of these areas of the Disposal Area.
- 1.6 The Respondent stipulates that the issuance and entry of this Order is proper and acceptable. This Order shall be considered a final order of the DEQ and shall become effective on the date it is signed by the Chief of the WHMD ("Division Chief"), designee of the Director, pursuant to Section 301(b) of the NREPA.
- 1.7 The Respondent agrees to incorporate a copy of the DEQ-approved Glen's Sanitary Landfill Leachate Spill Response Results, referenced in Paragraph 2.3 of this Order, into the site-wide Remedial Action Plan being developed for the Respondent.
- 1.8 The Respondent agrees to fully and strictly comply with all provisions of Part 115, the Part 115 Rules, and all other applicable state and federal statutes.
- 1.9 The Respondent and the DEQ agree that the signing of this Order is for settlement purposes only and does not constitute an admission by the Respondent of the allegations contained in the Violation Notice or that the law has been violated.

## II. COMPLIANCE PROGRAM

In order to resolve the violations alleged in the Violation Notices, the Respondent shall achieve and maintain compliance with the requirements specified below in accordance with the following schedule:

- 2.1 On April 14, 2008, the Respondent submitted to the DEQ, for review and approval, a work plan and schedule to undertake response activity and conduct a remedial investigation ("Work Plan") of the leachate releases and revised procedures for leachate loading and transportation ("Glen's Landfill Leachate Load Out Procedure"). On April 22, 2009, the DEQ approved the Work Plan and the Glen's Landfill Leachate Load Out Procedure, along with their respective schedules.
- 2.2 Upon the effective date of this Order, the Glen's Landfill Leachate Load Out Procedure is incorporated into and made an enforceable part of the DEQ-approved Operations Plan for the Disposal Area. The Respondent shall ensure that the Glen's Landfill Leachate Load Out Procedure is implemented in accordance with the procedures and schedule contained therein.
- 2.3 On April 30, 2009, the Respondent submitted to the DEQ, for review and approval, documentation to demonstrate that the Respondent has identified, removed, and properly disposed of all leachate-impacted soils from the leachate spill areas ("Glen's Sanitary Landfill Leachate Spill Response Results Report"). The Glen's Sanitary Landfill Leachate Spill Response Results Report also included documentation that all persons responsible for leachate load out activities at the Disposal Area are trained on the Glen's Landfill Leachate Load Out Procedure. The DEQ approved the Glen's Sanitary Landfill Leachate Spill Response Results Report on May 6, 2009.
- 2.4 On and after the effective date of this Order, the Respondent shall ensure that all future employee and contractor training on the Glen's Landfill Leachate Load Out Procedure is documented in the Operations Plan for the Disposal Area.

### III. APPROVAL OF SUBMITTALS

- 3.1 For any plan, schedule, report, or other document (collectively, "Submittal"), excluding an application for a permit or license, that is required by this Order to be submitted to the DEQ by the Respondent, the following process and terms of approval shall apply.
- 3.2 To be approved by the DEQ, any Submittal required by this Order shall include all of the information required by the applicable statute and/or rule and all of the information required by the applicable paragraph(s) of this Order.
- 3.3 The DEQ may approve, disapprove, or approve with specific modifications, any Submittal required by this Order. Any Submittal, and the attachments thereto, required by this Order shall be, upon approval or approval with modifications by the DEQ, incorporated into this Order and shall be enforceable in accordance with the terms of this Order. Any approved plans, schedules, reports, or other documents, and the attachments thereto, incorporated by reference into this Order are enforceable in accordance with the terms of this Order.
- 3.4 In the event the DEQ approves a Submittal with specific modifications, the DEQ shall notify the Respondent, in writing, of the specific modifications required to be made to such Submittal and the specific reasons for such modifications. The DEQ may require the Respondent to submit within thirty (30) calendar days of receipt of such approval with specific modifications, a revised Submittal that adequately addresses such modifications.
- 3.5 In the event the DEQ disapproves a Submittal, the DEQ shall notify the Respondent, in writing, of the specific reasons for such disapproval. The Respondent shall submit, within thirty (30) calendar days of receipt of such disapproval, a revised Submittal that adequately addresses the reasons for such disapproval unless the DEQ's notification specifies a longer time period.
- 3.6 Failure by the Respondent to submit an approvable revised Submittal within the applicable time period specified in this section shall subject the Respondent to the

enforcement provisions of this Order including, but not limited to, the imposition of additional civil penalties.

- 3.7 Any delays caused by the Respondent's failure to submit an approvable Submittal when due shall in no way affect or alter the Respondent's responsibility to comply with any other deadline(s) specified in this Order.

#### IV. REPORTING

- 4.1 The Respondent shall submit all items required in Section II, Compliance Program, to the District Supervisor, WHMD, DEQ, 120 West Chapin Street, Cadillac, Michigan 49601, unless specifically directed otherwise within this Order. The cover letter with each submittal shall identify the specific paragraph and requirement of this Order that the submittal is intended to satisfy. If the address of the District Supervisor changes, the Respondent will be notified and shall make all subsequent submittals to any new address of which they are notified.
- 4.2 The Respondent shall verbally report any violation(s) of the terms and conditions of this Order to the District Supervisor by no later than the close of the next business day following detection of such violation(s) and shall follow such notification with a written report within five (5) business days following detection of such violation(s). The written report shall include a detailed description of the violation(s), the precise cause or causes of the violation(s), a detailed description of any action(s) taken or proposed to correct the violation(s), and a schedule for the implementation of any proposed corrective action(s). The Respondent shall report any anticipated violation(s) of this Order to the District Supervisor in advance of the relevant deadlines, whenever possible.

#### V. RETENTION OF RECORDS

- 5.1 Upon request by an authorized representative of the DEQ, the Respondent shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this Order or pursuant to Part 115 and the Part 115 Rules. All such documents shall be retained at the Disposal Area for at least a period of three (3) years

from the date of generation of the record unless a longer period of record retention is required by Part 115 and the Part 115 Rules.

## VI. RIGHT OF ENTRY

- 6.1 The Respondent shall allow any authorized representative or contractor of the DEQ, upon presentation of proper credentials, to enter upon the premises of the Disposal Area at all reasonable times for the purpose of monitoring compliance with the provisions of this Order. This paragraph in no way limits the authority of the DEQ to conduct tests and inspections pursuant to the NREPA and its rules or any other applicable statutory provision.

## VII. FINES AND PENALTIES

- 7.1 Within thirty (30) days of the effective date of this Order, the Respondent shall pay the sum of \$ 22,367.55 to the State of Michigan in settlement of the DEQ's claim for a civil fine arising from the violations alleged in the Violation Notices.
- 7.2 To ensure timely payment of the above civil fine, the Respondent shall pay an interest penalty to the State of Michigan each time the Respondent fails to make a complete or timely payment. This interest penalty shall be based on the rate set forth at Section 6013(6) of the Revised Judicature Act, 1961 PA 236, as amended, MCL 600.6013(6), using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally made in full.
- 7.3 The Respondent shall make all payments required under this section by check made payable to the "State of Michigan" and mailed to the DEQ, Revenue Control Unit, P.O. Box 30657, Lansing, Michigan 48909-8157, or hand delivered to the DEQ, Revenue Control Unit, 5<sup>th</sup> Floor, South Tower, 525 West Allegan Street, Lansing, Michigan 48933. To ensure proper credit, all payments made pursuant to this Order must reference "Payment Identification Number WHM1082" on the front of the check and/or in the cover letter with the payment.

- 7.4 The Respondent agrees not to contest the legality of the civil fine assessed pursuant to this section. The Respondent further agrees not to contest the legality of any interest penalties assessed pursuant to this section.

#### VIII. GENERAL PROVISIONS

- 8.1 With respect to any violations not specifically addressed and resolved by this Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of the Respondent to comply with the requirements of the NREPA and its rules.
- 8.2 This Order in no way affects the Respondent's responsibility to comply with any other applicable local, state, or federal laws or regulations including, without limitation, any corrective action or similar requirements applicable to the Disposal Area pursuant to the NREPA and its rules.
- 8.3 Nothing in this Order is or shall be considered to affect any liability the Respondent may have for natural resources damages caused by the Respondent's ownership and/or operation of the Disposal Area. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
- 8.4 The DEQ and the Respondent agree that the terms and conditions of this Order will be enforceable in circuit court. The DEQ and the Respondent further agree that the appropriate venue for the enforcement of this Order shall be the Circuit Court for Leelanau County or Ingham County, State of Michigan, which courts shall also be appropriate for dispute resolution.
- 8.5 The provisions of this Order shall apply to and be binding on the Respondent, the DEQ, and their successors and assigns. The Respondent shall give notice of this Order to any prospective successor in interest prior to transfer of ownership of the Disposal Area property or any portion thereof and shall notify the DEQ of such proposed sale or transfer.

## IX. TERMINATION

9.1 This Order shall remain in full force and effect until expressly terminated by a written Notice of Termination issued by the Division Chief. The Respondent may request that the Division Chief issue a written Notice of Termination at any time after achieving full compliance with this Order. Such a request shall consist of a written certification that the Respondent has fully complied with all of the requirements of this Order and has made payment of any fine and penalties required under this Order. Specifically, this certification shall include:

- a. The date of compliance with each provision of the Compliance Program in Section II of this Order and the date(s) any fines and penalties were paid;
- b. a statement that all required information has been reported to the District Supervisor; and
- c. confirmation that all records required to be maintained pursuant to this Order are being maintained at the Disposal Area.

At the time of a request for termination, the Division Chief may request additional relevant information in order to make a determination of the Respondent's full compliance with this Order.

9.2 The Division Chief shall issue a written Notice of Termination unless the DEQ determines that the Respondent has not submitted the certification required under this section, has failed to submit the additional information specifically requested by the Division Chief, or has failed to comply with, or complete, all of the requirements of this Order.



X. SIGNATORIES

The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Order and to EXECUTE and LEGALLY BIND that party to it.

GLEN'S SANITARY LANDFILL, INC.

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

By: John C Myers

Steven E. Chester  
Director

Name: John C Myers

Title: Director of Operations

Date: 5/21/09

By: George W. Bruchmann, Jr., Acting  
George W. Bruchmann, Chief  
Waste and Hazardous Materials  
Division

Date: 5-28-2009

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